

ENTITLED TO EXTRA PAY.

A Local Resident's Claim as Paymaster of Volunteers Upheld.

Decision of Auditor for the War Department Overruled by the Comptroller—A Hearing on Cases of Other Government Employees.

Robert J. Tracwell, Comptroller of the Treasury, announced yesterday his decision in regard to the appeal of Merrill W. Lang, 106 1/2 Fifth Street northwest, for extra pay as paymaster in the United States Volunteers. Major Lang claimed one month's extra pay, being \$38.25, and commutation for quarters, equal to \$18, as late major and additional paymaster, United States Volunteers.

The Auditor disallowed the claim, which he described as one for extra pay, saying, "Having had a substantial furloign privilege, said claim is, therefore, disallowed."

The appeal was taken on the question of extra pay, and as there has been no statement by the Auditor of the claim for commutation of quarters the Comptroller contended that he had no jurisdiction to consider that item.

The records of the War Department show that Lang was appointed major and additional paymaster, United States Volunteers, August 2, 1898, to rank from same date; that he accepted his commission August 8, 1898; that he was on duty in this city from August 11 to December 8, 1898; and in the Department of War from December 8, 1898, to February 23, 1899, when he proceeded to his home, at Wellington, Ohio, in compliance with General Orders 25, Adjutant General's Office, dated February 8, 1899, in which order he was also discharged, to take effect March 7, 1899.

Mr. Tracwell, in concluding his decision, says:

"As it appears from the report of the War Department that Major Lang was not on waiting orders and did not receive waiting orders prior to discharge for a substantial part of the thirty months usually allowed in the case of officers who did not serve beyond the limits of the United States, he is entitled to one month's extra pay, under the act of May 28, 1890."

Upon a revision of the above described account, I find and certify a difference of \$18.25 due from the United States to claimant, being one month's extra pay—\$38.25—as major, less \$20.00, the balance found due the United States in the settlement of his accounts as paymaster.

This decision of the Comptroller of the Treasury will probably result in the filing of numerous complaints with the Auditor for the Department against the Secretary of War, as the result of the action of the latter in practically ignoring the ruling of the Comptroller in cases affecting the question of extra pay for paymasters' clerks on service outside the United States.

The Comptroller held that paymasters' clerks on foreign service are entitled to an increase in salary of 10 per cent per month. The decision was made upon a test case brought by a paymaster's clerk, who claimed extra pay for service in Porto Rico.

In spite of the fact, however, that the Comptroller of the Treasury rendered this decision in accordance with the law, the Secretary of War prohibited the payment of the extra salary by the Paymaster's Department. This extra compensation has not yet been paid, and it is claimed by several of those interested that the Secretary of War is not acting in accordance with the law. The Secretary of War, in the decision rendered yesterday, the Comptroller held that the claim of Major Merrill W. Lang for the extra pay, amounting to \$18.25, is valid. It was stated at the Paymaster General's Office yesterday that the Secretary of War would make no objection to paying this claim. It was said that the claim would be paid, owing to the fact that Major Lang had not had compensating furloign. It is held by the Secretary of War that a paymaster's clerk who has had compensating furloign is not entitled to extra pay, and the claims which have been disallowed have been done so on this ground.

While the decisions yesterday and on May 7 were not upon the same point, still, the similarity between the questions in issue is considerable, and paymasters' clerks serving outside the country will no doubt endeavor to have the first decision of the Comptroller enforced. It is understood that the paymasters' clerks of this sort entitled under the law to 10 per cent increase of salary per month, can obtain their money in spite of the directions of the Secretary of War to the Paymaster General's Department to prevent the payment, by going to the Treasury for what is due them. They are not, however, willing to do this, and are claiming that to do so would without doubt cost them their positions in the Paymaster's Department of the Army.

General Bates, Paymaster General of the Army, when asked about the matter, said that the Secretary of War had no authority to go above the decision of the Comptroller, and that, if the paymasters' clerks desired to leave the army, they were obliged to take the question into the Court of Claims. The decision of the Comptroller yesterday brought about a discussion concerning the action of the Secretary of War. The first decision was rendered by L. P. Mitchell, Assistant Comptroller of the Treasury, on May 1, 1901, who held that a paymaster's clerk of the army is an officer in the army, and that the act of May 28, 1890, and that he is entitled to the 10 per cent increase of pay proper provided for therein while serving in Porto Rico.

The decision was rendered at the request of the Paymaster General of the Army, and in consultation with Mr. Mitchell said:

"There is no difference in the status of a paymaster's clerk in the army and a paymaster's clerk in the navy. According to the above authorities one is an officer, in a general sense, in the military service, and is liable to be arrested and tried before a court-martial, and the other is an officer, in the general sense, in the navy, and is subject to the jurisdiction of naval courts-martial."

"The nature of their duties is essentially the same. The duty of an army paymaster's clerk bears the same relation to the army as that of a navy paymaster's clerk to the navy. Whether one is subjected to a more rigid discipline than the other, which is a matter of regulation, and which may be changed from time to time, can make no difference so far as the question here involved is concerned."

"The salary of each is fixed by law. The position of paymaster's clerk in the army is provided for by law, and although there is no statute specifically authorizing it, it is authorized by the Secretary of War, who is authorized to regulate the taking of oaths and is discharged on recommendation of the Paymaster General by the Secretary of War."

The act of May 28, 1890, provides: "That hereafter the pay proper of all officers and enlisted men serving in Porto Rico, Cuba, the Philippine Islands, Hawaii, and in the Territory of Alaska, shall be increased 10 per centum for each month and 20 per centum for each year over and above the rates of pay proper as fixed by law in time of peace."

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"I would also recommend that the company be permitted to substitute the enclosed type for the present open type, the advantage of the former over the latter being practically the same in the case of the low tension lamps. While the voltage of the circuit remains the same, the regulation is greatly improved, and the danger of breaking down the circuit is greatly reduced."

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ARGUMENT NOT CONCLUDED.

Contentions in the Stoddard Case to Be Submitted.

Argument was heard yesterday by Chief Justice Bingham on the demurrer filed to the petition of Dr. Leroy P. Stoddard, asking that a writ of mandamus be issued against the National Homeopathic Hospital Association, its board of directors, and Francis A. Whitteman, director, and Francis A. Whitteman, director, to compel them to admit his patients to the institution for treatment.

The respondents, who were represented by Arthur A. Birney, contended that if anyone has a right to petition for a writ of mandamus for relief, as in the case in point, it is the patient, and not the physician. The argument of the respondents, to a great extent a matter wholly within the discretion of the management of the institution, was not concluded, and it was agreed between counsel that the matter will be further presented to the court in written argument.

MAY EMPLOY COUNSEL.

Court Grants Permission to Receivers of American Savings Bank.

On the petition of T. L. Jeffords, Conrad H. Syme, Alexander Wolf and Charles Francis Carrad, receivers for the American Savings Bank, Justice Bradley yesterday signed an order empowering them to employ counsel, if necessary.

In connection with the suit of Nicholas T. Haller against the American Savings Bank, asking for the appointment of a receiver, Justice Bradley yesterday signed an order requiring the receivers to show cause, before November 2 next, why they should not deliver to Aquilla C. Howan a certain due bill claimed by him.

THE TREASURY STATEMENT.

Receipts of the Government Yesterday, According to the Treasury Statement.

The receipts of the Government yesterday, according to the Treasury statement, reached the sum of \$2,232,663.31, and consisted of customs, \$99,263.31, internal revenue, \$1,999,822.29, miscellaneous, \$99,700.00. The expenditures reached the sum of \$2,235,000, leaving a surplus of receipts over disbursements amounting to \$177,663.31.

WE PROVE IT.

Catarrh and Colds Can Be Relieved in 10 Minutes, Permanently Cured.

Eighty years old—catarrh fifty years. Dr. Agnew's Catarrhal Powder cures him. Many times evidence of the power of this wonderful remedy over this universal disease. Want the truth of the matter? Write George Lewis, Shamokin, Pa. He says: "I look upon my cure as a miracle. It relieves in ten minutes. Dr. B. B. Williams, Ninth and F Streets; Edmonds & Williams, Third Street and Pennsylvania Avenue—22

AFFAIRS OF THE DISTRICT.

A Change in the Type of Electric Are Lamps.

United States Lighting Company Incorporated—An Improvement—New Electric Commissioner Sworn In—Opening of Sherman Avenue.

The United States Electric Lighting Company recently wrote to the Commissioner asking permission to begin the proposed change of are lights on their system from the present type to the enclosed type. In reporting upon the proposed